

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

SATURDAY, THE 18TH AUGUST 2007 / 27TH SRAVANA 1929

Bail Appl..No. 4959 of 2007()

CRIME NO.27/07 OF KALADY EXCISE RANGE
CRMP.3377/2007 of J.M.F.C.,PERUMBAVOOR
.....

PETITIONER/ACCUSED

RATHEESH/O. KRISHNAN 25 YEARS,
MARUTHUMPARA HARIJAN COLONY,
PERUMATTIL PANCHAYATH, VANDITHAVALAM,
CHITTOOR TALUK, PALAKKADU DISTRICT.

BY ADV. SRI.JOHN JOSEPH(ROY)

RESPONDENTS: COMPLAINANT

STATE OF KERALA REPRESENTED BY THE
KALADY EXCISE RANGE OFFICE,KALADY THROUGH THE
PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 18/08/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R. BASANT, J.

B.A.No. 4959 of 2007

Dated this the 18th day of August, 2007

ORDER

Application for regular bail. The petitioner faces allegations under the Kerala Abkari Act. The crux of the allegations is that on 18.7.2007 the petitioner was found present in a car, in which 525 litres of spirit were alleged to have been transported without any valid document. There were two persons in the car. The Excise officials had tried to stop the vehicle. The vehicle was not stopped and it sped away. The Excise officials gave the chase. The vehicle was ultimately stopped. The driver ran away from the scene. The petitioner was found available in the vehicle. 15 cans each containing 35 litres of spirit was available in the car. According to the officials the petitioner stated that he does not know the name and address of the driver. He was only engaged by the driver and it was promised to give an amount of Rs.3,000/- if he helped him in doing the work of transportation of the spirit. The petitioner was arrested and he continues in custody from 18.7.07. The co-accused/driver has not been arrested so far.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. He submits that the petitioner had sought a lift and the driver had carried him in the vehicle. He had no contumacious knowledge or intention whatsoever. In these circumstances the petitioner, who remains in custody from 18.7.07 may now be enlarged on bail, prays the learned counsel.

3. The learned Prosecutor opposes the application. It is idle to swallow that version advanced by the petitioner at this stage. It is true that the petitioner has not been able to furnish the name and address of the driver. It could be that he is deliberately not revealing the name and address or it could be that he did not know the the name and address of the driver. At this stage and with the available materials, the version of the accused that he is only one who sought lift in the car cannot be accepted.

3. The learned Prosecutor further submits that the investigation is not complete. It is too early to release the petitioner on bail now. In the wake of opposition by the Public Prosecutor even regular bail can be granted to the petitioner only if this court is in a position to entertain both the satisfactions contemplated under Section 41A of the Kerala Abkari Act. In the facts and circumstances of this case, I am unable to entertain either

of those satisfactions. I do not intend to express any final opinion. Suffice it to say that I am convinced that this is not a fit case where the prayer of the petitioner to release him at this stage can be considered.

5. This application is hence dismissed. But I may hasten to observe that the petitioner shall be at liberty to move the courts below or this Court for bail again at a later stage of the investigation, not at any rate, prior to 1.9.2007. The Investigators shall, in the meantime, make every endeavour to complete the investigation.

(R. BASANT)
Judge

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